

APR 01 2013

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION**

JULIA C. DUDLEY CLERK
BY:
DEPUTY CLERK

UNITED STATES OF AMERICA) Civil Action No. 5:11-cr-00026-1
v.)
RUSSELL KINNARD HENRY, JR., Petitioner.) § 2255 Order
By: Hon. Michael F. Urbanski
United States District Judge

For the reasons stated in the accompanying opinion, it is hereby **ADJUDGED AND ORDERED** as follows:

- (1) The United States' motion to dismiss (Docket No. 84) is **TAKEN UNDER ADVISEMENT**, and the Clerk shall set this matter for an evidentiary hearing; and

(2) If petitioner cannot afford counsel, he can apply to proceed *in forma pauperis* and the court will appoint counsel; and

(3) The Clerk will arrange for the petitioner to appear by video-conferencing to the extent practicable.

The Clerk is directed to send a copy of this Order to petitioner and counsel of record for the United States.

ENTER: This 15th day of April, 2013.

Is/ Michael F. Urbanski

United States District Judge